

REMARKS

The above amendments and following remarks are submitted within the 60 day priority period under 37 C.F.R. 1.116 in response to the Final Official Action of the Examiner mailed June 13, 2006. Having addressed all objections and grounds of rejection, originally presented claims 1-20, being all the pending claims, are now deemed in condition for allowance. Entry of this amendment and reconsideration to that end is respectfully requested.

Claims 1-4, 6-9, 11-14, and 16-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2002/0026507, issued in the name of Sears et al (hereinafter referred to as "Sears"). This ground of rejection is respectfully traversed for the following reasons.

Enclosed herewith is the declaration under 37 C.F.R. 1.131 of all co-inventors of the subject application, establishing under oath that the invention of pending claims 1-20 was incorporated into the Cool ICE, Revision 2.1 commercial product of Unisys Corporation, assignee of all right, title, and interest to the subject application.

As declared by Applicants and as a matter of public record, the Unisys Cool ICE Revision 2.1 commercial product was placed on public sale in this country on April 4, 2000. Therefore, the subject invention of pending claims 1-20 was completely made and

on sale before the filing date, August 30, 2000, of U.S. Patent Application No. 09/650,806, parent of U.S. Patent Application Publication No. 2002/0026507 A1, in the name of Sears et al.

Thus, even though Applicants present herewith arguments sufficient to conclude that pending claims 1-20 completely distinguish over the rejections of the Examiner, these rejections are further traversed in view of the removal of Sears as a reference against the pending claims.

The standards for a finding of anticipation during examination are specified in MPEP 2131, which provides in part:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH
EVERY ELEMENT OF THE CLAIM
"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).
"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added)

The rejection is respectfully traversed because Sears does not show "the identical invention" in "as complete detail as is contained in the claims".

The essence of the present invention as disclosed and claimed requires a user terminal coupled to a data base management system via a publically accessible digital data communication network having a customized user interface module which is itself coupled to the user terminal via the publically

accessible digital data communication network. It is not in the claimed user terminal. The importance of this architecture is explained in detail in Applicants' specification providing various types of customized user interfaces associated with the various applications.

This feature was carefully pointed out to the Examiner in Applicants' previous submissions. Nevertheless, the Examiner cites yet additional prior art wherein the "individual users" host their own "service module" and/or "browser" providing the user interface. As cited by the Examiner, paragraph 0075 of Sears clearly states:

Individual users 78 may host on a computer 11, as service module 80 or via its browser, without additional software of "bit set" access the proxy client 965 and service module 80.

This is fully supported by Fig. 2, also cited by the Examiner wherein User 78 clearly contains Service Module 80.

With regard to claim 1, for example, the Examiner cites Fig. 2 to show the claimed "a user terminal for accessing a selected one of a plurality of applications coupled to a data base management system having a data base". Yet, Fig. 2 shows no "data base management system having a data base" as claimed.

Claim 1 is also limited by "a user interface module coupled to said user terminal via said publicly accessible digital data communication network and located within said data base of said data base management system which communicates with said selected

one of said plurality of applications only via said data base management system". In making his rejection, the Examiner cites paragraphs 0098-0099 of Sears, which discusses the contents of Memory 14 shown in Fig. 3. Memory 14 of Fig. 3 is shown as the internal memory of computer 11 of Fig. 1. However, as cited above, computer 11 is really individual user 78. Therefore, in accordance with the disclosure of Sears as cited by the Examiner, all of the claimed components are co-located within the computer 11 which is really individual user 78. The rejection of claim 1, and all claims depending therefrom, is respectfully traversed for failure of Sears to show "the identical invention" in "as complete detail as is contained in the claim" as explicitly required by MPEP 2131.

Claim 2 depends from claim 1 and further limits the "publicly accessible digital data communication network". Because Sears does not meet the limitations of claim 1, it cannot meet the further limitations of claim 2. The rejection of claim 2 is respectfully traversed.

Claim 3 depends from claim 2 and further limits the software architecture of the "User Terminal". Sears says nothing of software architecture and certainly shows nothing of software architecture in Fig. 2. The rejection of claim 3 is respectfully traversed as based upon clearly erroneous findings of fact.

Claim 4 depends from claim 3 and further requires that the "application" and the "user interface module" are located within a single server. This limitation can only be met because all claimed components are located within computer 11. As a result, claim 4 is patentable, because it depends from patentable claim 3. The rejection of claim 4 is respectfully traversed.

In rejecting claims 6-9, the Examiner clearly erroneously states:

As per claims 6-9, since (sic) they are apparatus claims of claims 1-4, they are rejected for the same basis as claims 1-4 above.

Claims 1-4 and 6-9 are not of the same scope. For example, claim 6 is limited by "an application responsively coupled to said user interface module via said data base management system". This limitation is simply not found in claims 1-4. Therefore, in addition to the clearly erroneous findings of fact with regard to the rejection of claims 1-4, the rejection of claims 6-9 is respectfully traversed as incomplete as a matter of controlling law.

In rejecting claims 11-14, the Examiner clearly erroneously states:

As per claims 11-14, since (sic) they are method claims of claims 1-4, they are rejected for (sic) the same basis as claims 1-4 above.

Claim 11, for example, is a method claim having four steps. Sears has none of these four steps. Furthermore, the Examiner

has not alleged that Sears does have these four steps, because he continues to refuse to even examine these claims in opposition to controlling law.

For example, claim 11 requires "transferring", "receiving", "storing", and "retrieving". Sears does not have any of these steps as claimed. In addition to the clearly erroneous findings of fact identified above, the rejection of claims 11-14 is respectfully traversed as being incomplete as a matter of law.

In rejecting claims 16-19, the Examiner again fails to apply controlling law. Failing to acknowledge the difference in statutory basis and the examination procedures mandated by MPEP 2181 et seq., the Examiner states:

AS per claims 16-19, since (sic) they are means plus function claims of claims 1-4, they are rejected for (sic) the same basis as claims 1-4 above.

In addition to the clearly erroneous findings of fact explained above, this ground of rejection is clearly incorrect as a matter of law.

Claims 5, 10, 15, and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Sears in view of U.S. Patent No. 6,446,117, issued to Gebauer (hereinafter referred to as "Gebauer"). This rejection is respectfully traversed for failure of the Examiner to present a *prima facie* case of obviousness as specified by MPEP 2143.

In making an obviousness rejection, the Examiner has the burden of making showings of: 1) motivation; 2) reasonable likelihood of success; and 3) all claim limitations. The Examiner has not even mentioned his obligation to make the second showing or the clear teachings of Gebauer which teach against the alleged combination.

Furthermore, with regard to motivation, Applicants have previously indicated the Examiner's lack of showing in accordance with MPEP 2143. As explained above, based upon the Examiner's currently holdings, it seems clear that he simply refuses to apply controlling law. The Examiner has instead chosen his own standard which is specifically disclaimed by MPEP 2143.01.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-20, being the only pending claims.

Please charge any deficiencies or credit any overpayment to
Deposit Account No. 14-0620.

Respectfully submitted,

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By their attorney,



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